

REMARKS

The undersigned thanks Examiners Bernatz and Resan for the courtesies extended during the interview of January 23, 2002. The suggestions provided by the Examiners have been extremely helpful in drafting the amended claims of this Amendment. At the interview, the Examiners suggested that reciting "a glass or glass-ceramic substrate comprising Li" and "a sealing layer comprising substantially amorphous NiNb directly deposited on the glass or glass-ceramic substrate" should distinguish over U.S. Pat Nos. 5,741,560 and 6,103,404, which were discussed at the interview. Applicants have accordingly amended independent claims 21 and 22.

With respect to means-plus-function claim 23, Applicants have not added the limitation "a sealing layer comprising substantially amorphous NiNb directly deposited on the glass or glass-ceramic substrate" because it is means-plus-function claim. Instead, claim 22 recites "a sealing means having a thickness of about 450Å or less for substantially preventing migration of Li from the substrate to a magnetic layer of the magnetic recording medium." The literal scope of "a sealing means having a thickness of about 450Å or less for substantially preventing migration of Li from the substrate to a magnetic layer of the magnetic recording medium" under 35 USC 112, sixth paragraph, is that of the structure disclosed in the specification corresponding to such language and its equivalents.

Please note that the Federal Circuit in *In re Donaldson Co.*, 29 USPQ 2d 1845, (Fed. Cir. 1994) (en banc), states:

The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure. Paragraph six does not state or even suggest that the PTO is exempt from this mandate

Per our holding, the "broadest reasonable interpretation" that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.

In light of the above, a Notice of Allowance is respectfully solicited.

Attached hereto is a marked-up version of the changes made to the claims by this amendment. The attached pages are captioned "Version with markings to show changes made."

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952, referencing docket number 14671-20004.00. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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